



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 6759-01
16 January 2002

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Naval Reserve, filed enclosure (1) with this Board requesting, in effect, that his reenlistment code be changed.
2. The Board, consisting of Ms. Hare, Mr. Novello, and Mr. McPartlin, reviewed Petitioner's allegations of error and injustice on 15 January 2002 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Although it appears that enclosure (1) was not filed in timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.
 - c. Petitioner enlisted in the Naval Reserve on 20 April 1994. He reported to active duty on 11 August 1994. On 10 November 1994 he was diagnosed as being alcohol dependent.
 - d. On 17 November 1994 he received nonjudicial punishment for an unauthorized absence of 12 days.
 - e. On 29 November 1994 the commanding officer directed a void enlistment by reason of erroneous enlistment due to alcohol

abuse. Petitioner was separated on 2 December 1994. At that time he was assigned an RE-4 reenlistment code.

f. Title 10 U.S.C. 978 states that an enlistment may be voided only if an individual is diagnosed as drug or alcohol dependent within 72 hours of reporting to active duty. However, even if this time limit is not met, an individual so diagnosed may be separated with an entry level separation by reason of erroneous enlistment due to alcohol abuse. Additionally, regulations require the assignment of an RE-4 reenlistment code when an enlistment is voided or if an individual is separated by reason of erroneous enlistment due to alcohol abuse.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial relief. In this regard, it is clear that Petitioner was not diagnosed as alcohol dependent within 72 hours of his entry on active duty. Therefore, the Board concludes that the record should be corrected wherever necessary to show that he was separated with an entry level separation.

Concerning Petitioner's request for a change in his reenlistment code, an RE-4 reenlistment code is appropriate in Petitioner's case since he was separated prior to completing recruit training by reason of erroneous enlistment due to alcohol dependency. Such a code is required under these circumstances.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he received an entry level separation on 2 December 1994 vice the void enlistment now of record.

b. That Petitioner's request for a change in the reenlistment code be denied.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director